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EX PARTE OR LATE FILED

February 3, 1999

Magalie Roman Salas, Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., TW-A325  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Written *Ex Parte* Submission —

*CTIA Petition for Forbearance from Commercial Mobile Radio Services  
Number Portability Obligations, WT Docket No. 98-229*

*Local Number Portability, CC Docket No. 95-116*

*North American Numbering Council Report Concerning Telephone Number  
Pooling and Other Optimization Measures, NSD File No. L-98-134*

Dear Ms. Salas:

U S WEST Wireless, LLC ("USWW") hereby submits an original and six copies of this written *ex parte* presentation in support of the exercise of forbearance with respect to number portability requirements imposed on Commercial Mobile Radio Service ("CMRS") providers. USWW respectfully submits that the original concerns that prompted the application of number portability to CMRS providers are unfounded, and, as such, complete forbearance is warranted.

Given that number portability is not required by statute for CMRS (and the Commission's authority to require it has been called in question), forbearance from imposing this regulatory burden is fully warranted if there is not a compelling record for it. In practice, it is clear that there is no basis for requiring CMRS number portability. The original justifications for the requirement — if they ever were valid — simply do not warrant the requirement at this point.

● **Competition abounds without number portability.**

There has been increasing competitive entry and an increasingly competitive CMRS marketplace, as indicated by the FCC's CMRS Competition Reports and confirmed by US WEST Wireless market studies. CMRS prices have fallen in response to growing competition within the sector, and use of wireless as a substitute for wireline service, in whole or in part, is increasingly common in both urban and rural areas. Number portability simply is not needed to spur competition among CMRS providers or between CMRS and wireline service.

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- **Allowing customers to keep numbers is not important to CMRS customers or new CMRS entrants.**

CMRS customers choose a carrier based on factors such as price point, services, and coverage. The industry “churn” rate — generally accepted to be 30-33% — shows that the need to change numbers is no impediment to customers’ switching carriers. Moreover, the overall CMRS annual growth rate of 30-40% shows that number portability is not needed to attract new customers to this service.

Given that number portability is not important to customers, new CMRS entrants do not find it necessary. This is very significant, because one of the key public interest factors underlying the Commission’s adoption of the requirement was its understanding that new PCS licensees believed number portability to be essential. It is now clear that PCS entrants have come to the opposite conclusion — that number portability should *not* be required. Since number portability is not needed to attract customers, any potential advantage it might confer is strongly outweighed by the cost, as the next point shows.

- **The cost of number portability is a barrier to new services, drives prices up.**

It is clear that number portability is an expensive proposition involving substantial capital costs. These costs will have a disproportionate impact on new entrants, who have an immediate need for capital to build out their systems to compete with well-established incumbents having ubiquitous coverage. The need to raise and invest capital in number portability implementation unnecessarily diverts capital from more important uses, such as improved coverage and new services and technologies. Moreover, the increased capital cost of providing service will result in price increases as costs are passed to customers.

It is apparent at this point that the public interest will be harmed, not furthered, by requiring CMRS number portability. New entrants will face a more substantial barrier to build-out, thereby diminishing competition and customer choice. If and when market forces — *i.e.*, customer demand — establish a need for number portability, carriers will have incentives to implement it *without any need for regulatory intervention*.

In USWW’s case, CMRS number portability will have a very detrimental impact. USWW is a new PCS entrant with no existing cellular operations. It needs to complete its PCS build-out to compete successfully. Number portability imposes significant capital costs that will delay its launch of service, reducing the number of new markets built out in 1999 by two thirds. Even though it is a new entrant, USWW has been able to compete effectively with incumbent CMRS carriers — without number portability. Since beginning operations in late 1997, USWW has acquired over 200,000 CMRS customers, many from competitors. These customers are not sensitive to telephone number changes; they select USWW as their wireless carrier because of the product features and services offered. In fact, the growth rate in USWW’s markets has exceeded expectations.

USWW recognizes that the staff is considering certain number conservation measures (e.g., 1000-block number pooling) that depend on implementation of local number portability, but submits that this does not constitute a reason for continuing to require CMRS number portability. This was not one of the Commission's reasons for adopting CMRS number portability. The record provides no basis for continuing to require number portability on this ground.

USWW submits that number portability should *not* be required to facilitate number pooling by CMRS carriers as a matter of policy. CMRS participation in number pooling is neither necessary nor desirable. CMRS carriers use their numbering resources very efficiently. They have high utilization rates and typically obtain NXX codes from only a limited number of rate centers. As a result of their high utilization and limited rate center presence, they would have little or no number resources to contribute to a numbering pool. Thus, pooling and number portability would yield little or no benefit, but would nevertheless be very expensive to implement. Under these circumstances, requiring CMRS number portability in order to facilitate number pooling would not represent sound public policy.

Moreover, wireless carriers have actively implemented numbering conservation measures, and continue to do so, constantly reviewing and improving the measures in place. USWW's wireless operations, for example, use the same numbering administration measures in all markets — utilizing NXX codes in blocks of 1000 numbers at a time, and opening entire new NXX codes only when demand warrants. This conserves numbers, limits the number of blocks "contaminated," and allows USWW to address the needs of business customers for blocks of contiguous numbers efficiently and to use numbers efficiently for providing unique services (e.g., prepaid wireless phone service). This also leads to high utilization rates.

USWW intends to meet with Commission staff to discuss its specific utilization rates and conservation measures in the near future. In this regard, we note that CTIA recently filed a proposal with the Commission concerning the possible establishment of threshold utilization rates and other criteria for obtaining new NXX codes. USWW is in the process of evaluating this proposal. USWW supports the concept of establishing utilization threshold rates as a conservation measure and will discuss its views further when it meets with the Commission staff.

In closing, USWW again strongly emphasizes that number conservation concerns are no reason to impose number portability requirements on CMRS carriers. The public interest here — including the interests of both consumers and new entrants — militates strongly against a CMRS number portability requirement. Accordingly, USWW urges the Commission to grant full forbearance.

Respectfully submitted,



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Executive Director - Federal Regulatory

cc: Yog Varma, Deputy Chief, Common Carrier Bureau  
Jeanine Poltronieri, Senior Counsel, Wireless Telecommunications Bureau